

The Gazette of India

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No. 7] NEW DELHI, SATURDAY, MARCH 29, 1958/CHAITRA 8, 1880

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 21st March, 1958:—

| Issue No. | No. and date | Issued by | Subject |
|-----------|--|------------------------------------|---|
| 25 | S.O. 248, dated the 15th March, 1958. | Election Commission, India. | Election to fill a vacancy in the House of the People from the Cooch Behar Parliamentary Constituency. |
| | S.O. 249, dated the 15th March, 1958. | Ditto. | Appointment of dates for bye-election to be held in the Cooch Behar Parliamentary Constituency. |
| | S.O. 250, dated the 15th March, 1958. | Ditto. | Fixation of the hours during which the pole shall be taken for election to be held in the Cooch Behar Parliamentary Constituency. |
| 26 | S. O. 251 to S.O. 257, dated the 12th March, 1958. | Ditto. | List of contesting candidates for Biennial Election to the Council of States by the elected members of the Legislative Assemblies of the States of Andhra Pradesh, Kerala, Madhya Pradesh, Madras, Orissa, Rajasthan and Uttar Pradesh. |
| 27 | S.O. 258, dated the 17th March, 1958. | Ditto. | Method of voting by marking the ballot paper shall be followed in the polling stations within the area of the Falakata Assembly Constituency in the bye-election to the House of the People from the Cooch Behar Constituency. |
| 28 | S. O. 259, dated the 10th March, 1958. | Ditto. | Election Petition No. 474 of 1957. |
| 29 | S.O. 260, dated the 17th March, 1958. | Ministry of Commerce and Industry. | Rules made by the East India Cotton Association, Limited. |

| Issue No. | No. and date | Issued by | Subject |
|-----------|--|---|---|
| 30 | S.O. 261, dated the 15th March, 1958. | Ministry of Labour and Employment. | Award of the National Industrial Tribunal, Luck now in the dispute between the Indian Airlines Corporation and their workmen. |
| 31 | S.O. 310, dated the 12th March, 1958. | Election Commission India. | Election Petition No. 5 of 1957. |
| 32 | S.O. 311 to S.O. 314, dated the 19th March 1958. | Ditto. | List of Contesting candidates for Biennial election to the Council of States by the elected members of the Legislative Assemblies of Bihar, Mysore, Punjab, and Himachal Pradesh. |
| 33 | S.O. 315, dated the 15th March, 1958. | Ditto. | Election Petition No. 444 of 1957. |
| 34 | S.O. 316, dated the 21st March, 1958. | Ministry of Information and Broadcasting. | Certification of film to be of the description specified therein. |

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 13th March 1958

S.O. 320.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951 (XLIII of 1951), incurred by the person whose name and address are given below, as notified under Notification No. BR-P/85/57(68), dated the 31st July, 1957, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

Shri John David Maxwell Hamilton Bazray,
21-A, Mangovilla, Morhabadi, Ranchi (Bihar).

[No. BR-P/85/57(68-R)-2390.]

By order,
S. C. ROY, Secy.

New Delhi, the 13th March 1958

S.O. 321.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951 (XLIII of 1951), incurred by the person whose name and address are given below, as notified under notification No. WB-P/386/57(176), dated the 17th October, 1957,

has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

Shri Ranadeb Chowdhury, 34, Ballygunge Circular Road, Calcutta.

[No. WB-P/366/57(176-R)/8868.]

New Delhi, the 17th March 1958

S.O. 322.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951 (XLIII of 1951), incurred by the person whose name and address are given below, as notified under notification No. WB-P/368/57(14) dated the 6th June, 1957 has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

Shri Kishorilal Kundu, Village Amlatola, P.O. Katihar, District Purnea.

[No. WB-P/368/57(14-R)/2548.]

By Order,

A. S. NADKARNI, Under Secy.

MINISTRY OF LAW

New Delhi, the 21st March 1958

ORDER

S.O. 323.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that the following further amendments shall be made in the notification of the Government of India in the Ministry of Law No. S.R.O. 1141, dated the 15th June 1953, relating to the execution of agreements for the payment of compensation for property requisitioned or acquired by or on behalf of the Central Government under the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), namely:—

In item 4 of the Schedule to the said notification—

(i) in entry (c), the word 'and' at the end shall be omitted;

(ii) entry (d) shall be re-lettered as entry (e) and before the entry as so re-lettered, the following entry shall be inserted, namely:—

“(d) by the land acquisition officers of Calcutta and of other districts who are functioning as collectors under the Land Acquisition Act, 1894 (1 of 1894), and”.

[No. F.27-III/53-L.]

B. N. LOKUR, Jt. Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 24th March 1958

S.O. 324.—In exercise of the powers conferred by entry 3 (b) of the table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify Shri Rama Varma Valia Koil Thampuran, Consort of the Senior Maharani of Travancore, for the purposes of that entry.

[No. 16/5/58-Police/IV.]

C. P. S. MENON, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 1st January 1958

S.O. 325.—Whereas by virtue of the agreement dated the 21st day of October, 1954, entered into between the Government of India and the Government of France, the Central Government has jurisdiction in and in relation to the State of Pondicherry;

Now, therefore, in exercise of the powers conferred by Section 4 of the Foreign Jurisdiction Act, 1947 (XLVII of 1947), and all other powers enabling it in that behalf, the Central Government is pleased to make the following Order, namely:—

1. (1) This Order may be called "The Pondicherry Chamber of Commerce Constitution (Amendment) Order, 1958".
(2) It shall be deemed to have come into force on the 1st day of January, 1958.
2. In Article 2 of the French Decree, dated 6th July, 1934, relating to the constitution of the Chamber of Commerce at Pondicherry, wherever the word 'French' occurs the words 'French or Indian' shall be read.

[No. F.36(13)-Eur:(E)/57.]

A. DAS GUPTA, Under Secy.

MINISTRY OF FINANCE
(Department of Economic Affairs)

New Delhi, the 19th March, 1958

S.O. 326.—Statement of the Affairs of the Reserve Bank of India, as on the 14th March 1958.

BANKING DEPARTMENT

| Liabilities | Rs. | Assets | Rs. |
|--|---------------|---|---------------|
| Capital paid up | 5,00,00,000 | Notes | 9,60,85,000 |
| Reserve Fund | 80,00,00,000 | Rupee Coin | 10,19,000 |
| National Agricultural Credit (Long-term Operations) Fund | 20,00,00,000 | Subsidiary Coin | 2,54,000 |
| National Agricultural Credit (Stabilisation) Fund | 2,00,00,000 | Bills Purchased and Discounted :— | |
| | | (a) Internal | .. |
| | | (b) External | .. |
| | | (c) Government Treasury Bills | 10,25,68,000 |
| Deposits :— | | Balances held abroad* | 36,62,48,000 |
| (a) Government | | Loans and Advances to Governments** | 44,84,34,000 |
| (1) Central Government | 50,31,49,000 | Other Loans and Advances† | 73,11,11,000 |
| (2) Other Governments | 21,67,29,000 | Investments | 235,82,34,000 |
| (b) Banks | 67,93,19,000 | Other Assets | 13,66,70,000 |
| (c) Others | 117,98,84,000 | | |
| Bills Payable | 22,10,99,000 | | |
| Other Liabilities | 37,04,43,000 | | |
| | | | |
| Rupees | 424,06,23,000 | Rupees | 424,06,23,000 |

*Includes Cash & Short Term Securities.

** Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 21,75,16,000/- advanced to scheduled banks against usance bills under Section 17 (4) (c) of the Reserve Bank of India Act.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 14th day of March 1958.

ISSUE DEPARTMENT

| Liabilities | Rs. | Rs. | Assets | Rs. | Rs. |
|--|-----------------------|----------------|---|----------------------|----------------|
| Notes held in the Banking Department | 9,60,85,000 | | A. Gold Coin and Bullion :— | | |
| Notes in circulation | <u>1578,25,55,000</u> | | (a) Held in India | 117,76,03,000 | |
| Total Notes issued | | 1587,86,40,000 | (b) Held outside India | .. | |
| | | | Foreign Securities | <u>245,53,81,000</u> | |
| | | | TOTAL OF A | | 363,29,84,000 |
| | | | B. Rupee Coin | | 127,80,53,000 |
| | | | Government of India Rupee Securities | | 1096,76,03,000 |
| | | | Internal Bills of Exchange and other commercial paper | | .. |
| TOTAL LIABILITIES | | 1587,86,40,000 | TOTAL ASSETS | | 1587,86,40,000 |

Dated the 19th day of March 1958.

H. V. R. IENGAR, Governor.

[No. F. 3 (2)-F.1/58.]

A. BAKSI, Jt. Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 18th March 1958

S.O. 327.—In exercise of the powers conferred by section 6 of the Estate Duty and Tax on Railway Passenger Fares (Distribution) Act, 1957 (57 of 1957), the Central Government hereby makes the following rules, namely:—

THE ESTATE DUTY (DISTRIBUTION) RULES, 1958

1. Short title.—These rules may be called the Estate Duty (Distribution) Rules, 1958.

2. Definition.—In these rules, "the Act" means the Estate Duty and Tax on Railway Passenger Fares (Distribution) Act, 1957 (57 of 1957). -

3. Calculation of gross value of property.—For calculating the gross value of movable and immovable property in any financial year, the principal value of all properties specified in clauses (a), (b) and (c) coming under assessment during that financial year shall be aggregated in the manner specified in the said clauses:—

- (a) the principal value of all property which consists of an interest in the joint family property of a Hindu family governed by the *Mitakshara*, *Marumakkattayam* or *Aliyasantana* law, to the extent to which the principal value of any such property exceeds rupees fifty thousand;
- (b) the principal value of all property [other than any such property as is referred to in clause (a) or clause (c)], to the extent to which any such property exceeds rupees one lakh;
- (c) the principal value of shares in any such company as is referred to in sub-section (1) of section 84 of the Estate Duty Act, 1953 (34 of 1953), in respect of which the company is liable to estate duty, to the extent to which the principal value thereof exceeds rupees five thousand.

4. Provisional distribution of estate duty.—The amount of estate duty attributable to immovable and other property shall be distributed among the States provisionally in the manner specified in clause (b) of sub-section (2) of section 3 of the Act, and such distribution shall be made twice every year, namely, in the months of October and March, the first instalment being equal to one-half of the States' share of the estate duty as in the budget estimate for that year and the second instalment being equal to the States' share of the duty as in the revised estimate for the year less the sum already paid.

5. Final adjustment of estate duty.—(1) The amount of estate duty attributable to immovable and other property distributable among the States in each financial year shall be finally computed with reference to the net proceeds of such duty as ascertained and certified by the Comptroller and Auditor-General of India.

(2) If on the basis of the certificate of the Comptroller and Auditor-General of India any further sum is found due, or any excess payment is found to have been made, to a State, having regard to the provisions contained in sub-section (2) of section 3 of the Act, such further sum or excess payment shall be paid to or, as the case may be, recovered from the State in the financial year in which the net proceeds are certified by the Comptroller and Auditor-General.

[No. 4(2)-B/58.]

H. S. NEGI, Jt. Secy.

(Department of Economic Affairs)

New Delhi, the 18th March 1958

S.O. 328.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of clause (1) of sub-section (1) of section 12 of the said Act shall not apply,

- (i) up to and including the 30th September 1958 in respect of the South Indian National Bank Ltd., Mavelikara, and
- (ii) up to and including the 31st March 1959 in respect of the Martandam Commercial Bank Ltd., Trivandrum.

[No. F.4(28)-FI/58.]

P. P. TRIVEDI, Under Secy.

New Delhi, the 21st March 1958

S.O. 329.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949) the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that in the case of the under-noted banking companies, the provisions of section 11 of the said Act shall not apply up to and including the 31st March, 1959:—

1. Adoor Bank Ltd., Adcor.
2. Bank of New India Ltd., Trivandrum.
3. Bareilly Bank (Private) Ltd., Bareilly.
4. Cochin Nayar Bank Ltd., Trichur.
5. Cochin Union Bank Ltd., Trichur.
6. Colony Bank Ltd., Ludhiana.
7. G. Raghunathmull Bank Ltd., Hyderabad (Deccan).
8. Indian Traders Bank Ltd., Alwaye.
9. Kerala Commercial Bank Ltd., Trivandrum.
10. Kerala Service Bank Ltd., Trivandrum.
11. Kishanganj Bank Ltd., Kishanganj.
12. Martandam Commercial Bank Ltd., Martandam.
13. Moolankuzhi Union Bank Ltd., Thoppumpady.
14. National Trust Bank Ltd., Calcutta.
15. Oriental Union Bank Ltd., Kaduthuruthy.
16. Prabartak Bank Ltd., Calcutta.
17. Rayalaseema Bank Ltd., Bellary.
18. Society Bank Ltd., Tiruvalla.
19. South Indian National Bank Ltd., Mavelikara.
20. Suburban Bank (Private) Ltd., Trichur.
21. United India Bank Ltd., Chengannur.

[No. F.4(170)-F.I/57.]

New Delhi, the 22nd March 1958

S.O. 330.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that in the case of the under-noted banking companies, the provisions of section 11 of the said Act shall not apply for a period up to and including the 30th September, 1958:—

1. Bank of Konkan Ltd., Malvan.
2. New Citizen Bank of India Ltd., Bombay.

[No. 4(170)-F.I/57.]

R. K. SESHADRI, Dy. Secy.

MINISTRY OF COMMERCE & INDUSTRY

Indian Standards Institution

New Delhi, the 13th March 1958

S.O. 331.—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Indian Standards Institution hereby notifies that the Standard Marks, designs of which together with the verbal description of the design and the title of the related Indian Standard are given in the Schedule hereto annexed, have been specified.

These Standard Marks, for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the rules and regulations framed thereunder, shall come into force with effect from 1st April, 1958.

THE SCHEDULE

| Sl. No. | Design of the Standard Mark | No. and title of relevant Indian Standard | Verbal description of the design of the Standard Mark |
|---------|-----------------------------|---|---|
|---------|-----------------------------|---|---|

(1)

(2)

(3)

(4)



IS : 449—1953 Specification for Enamelled High Conductivity Annealed Round Copper Wire (Oleo-Resinous Enamel)

The monogram of the Indian Standards Institution, consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (2), the number designation of the Indian Standard being inscribed in the top side of the monogram as indicated in the design.

2.



IS : 560—1955 Specification for BHC, Technical

Do.

D. V. KARMARKAR,
Deputy Director (Marks).

[No. MDC/11(5).]

S.O. 332.—In pursuance of sub-regulation(3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee per unit for certain products/class of products, details of which are given in the Schedule hereto annexed, have been determined and these fees shall come into force with effect from 1st April 1958.

THE SCHEDULE

| Sl. No. | Product/ Class or Products | No. and Title of Relevant Indian Standard | Unit | Marking Fee per Unit |
|---------|---|---|---------|----------------------|
| 1. | Enamelled High Conductivity Annealed Round Copper Wire (Oleo-Resinous Enamel) | IS : 449—1953 Specification for Enamelled High-Conductivity Annealed Round Copper Wire (Oleo-Resinous Enamel) | One ton | Rs. 5.00 |
| 2. | BHC, Technical | IS : 560—1955 Specification for BHC, Technical | Do. | Re. 1.00 |

D. V. KARMARKAR,
Deputy Director (Marks).
[No. MDC/11(6).]

New Delhi, the 11th March 1958

[S.O. 333.]—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that two licences, particulars of which are given in the Schedule hereto annexed, have been renewed for periods shown against each.

THE SCHEDULE

| Sl. No. | Licence No. and Date | Period of Validity | | Name and Address of the Licensee | Article/Process covered by the licence | Relevant Indian Standard |
|---------|----------------------|--------------------|-----------|---|---|--|
| | | From | To | | | |
| 1 | CM/L—25 21-3-1957 | 1-4-1958 | 31-3-1959 | M/s. Associated Battery Makers (Eastern) Private Ltd., 59C Chowringhee Road, Calcutta-20. | Lead-Acid Storage Batteries (Dry Separators) for Motor Vehicles, Light Duty | IS: 395—1952 Specification for Lead Acid Storage Batteries for Motor Vehicles, Light Duty. |
| 2 | CM/L—26 21-3-1957 | 1-4-1958 | 31-3-1961 | M/s. Carew & Co. Ltd., Ross, Distt. Shahjahanpur (U.P.) | Rectified Spirit—Grade A | IS: 323—1952 Specification for Rectified Spirit. |

D. V KARMARKAR,
Dy. Director, (Marks).

[No. MDC/12 (27).]

New Delhi, the 12th March 1958

S.O. 334.—In modification of the rate of marking fee, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.R.O. 3171 dated the 7th December 1955 published in the Gazette of India, Part II—Section 3 dated the 24th December 1955 and as modified *vide* Corrigendum No. S.R.O. 1313 dated the 15th April 1957 published in the Gazette of India, Part II—Section 3 dated the 27th April 1957, the Indian Standards Institution hereby notifies that the marking fee per unit for magnesium chloride, details of which are given in the Schedule hereto annexed, has been amended. The amended rate of marking fee shall come into force with effect from the 1st April, 1958.

THE SCHEDULE

| Product/Class of Products | No. and Title of Relevant Indian Standard | Unit | Marking Fee per Unit |
|-------------------------------|---|---------|--|
| Magnesium Chloride, Technical | IS : 254—1950 Specification for Magnesium Chloride, Technical | One ton | 25 Naye Paise with a minimum of Rs. 250.00 |

D. V. KARMARKAR,
Deputy Director (Marks).
[No. MDC/11(6).]

(PATENTS AND DESIGNS)

New Delhi, the 21st March 1958

S.O. 335.—The following draft of certain amendment in the Indian Patents and Designs Rules, 1933, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 77 of the Indian Patents and Designs Act, 1911 (2 of 1911), consequent on the coming into force of section 15 of the Copyright Act, 1957 (14 of 1957), is published as required by sub-section (2) of the said section for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 1st May, 1958.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government:—

Draft Amendment

In the said rules, rule 67A and the heading thereto shall be omitted.

[No. 7(26)-TMP/57.]

ORDER

(EXPORT TRADE CONTROL)

New Delhi, the 18th March 1958

S.O. 336.—In exercise of the powers conferred by sections 3 and 4A of the Imports and Exports (Control) Act, 1947 (18 of 1947), as in force in India and as applied to the State of Pondicherry, the Central Government hereby makes

the following further amendment in the Exports (Control) Order, 1954, namely:—

In Schedule I to the said Order—

Under the head 'B RAW MATERIALS AND ARTICLES MAINLY UNMANUFACTURED', for entry (ii) of item 20 the following shall be substituted —

"(ii) Rags and other materials, excluding jute rags and jute rag waste which have no spinning value"

[No Export(1)/AM(64)]

T S KUNCHITHAPATHAM, Under Secy

New Delhi, the 18th March 1958

S.O. 337.—In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following further amendment in the Cotton Control Order, 1955, namely —

In the said Order, in clause 15, for sub-clause (1), the following shall be substituted, namely —

"(1) Every person, not being a manufacturer, holding either an 'A' or a 'B' class licence granted under this Order shall, within five days of the completion of every month submit to the appropriate licensing authority or any other officer authorised by it in this behalf, a true and accurate return in Form 'C' in respect of stocks, receipts and sales of each description of cotton"

[No 24(3)-Tex(A)/58 4]

V V NENE, Under Secy

(Department of Company Law Administration)

New Delhi, the 14th March 1958

S.O 338.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 448 of the Companies Act, 1956 (1 of 1956), the Central Government hereby appoints Shri T Lakshmalah, Assistant Editor, ILR, Andhra Pradesh, to be the *ex-officio* official liquidator attached to the High Court of Andhra Pradesh, Hyderabad, with effect from the date he assumes office, *vice* Shri V Krishnaswamy, Deputy Registrar, High Court, Andhra Pradesh.

[No 2(5)-CL III/56]

P B SAHARYA, Under Secy

ORDER

New Delhi, the 24th March 1958

S.O. 339/IDRA/6/13/1.—In pursuance of clause (c) of rule 2 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Shri N Srinivasan, Development Officer, Development Wing, Ministry of Commerce & Industry, New Delhi, as Secretary to the Development Council for Oil-based Industries established by the Order of the Government of India in the Ministry of Commerce & Industry No SRO 205, dated the 4th March, 1953, for the scheduled industries engaged in the manufacture or production of Soaps, Paints and Plastics, with effect from the 4th March, 1958.

[No. 5(32)IA(II)(G)/57.]

CORRIGENDA

New Delhi, the 24th March 1958

S.O. 340.—In the Ministry of Commerce and Industry Order SRO 3474, dated the 28th October, 1957, published in Part II Section 3 of the Gazette of India dated the 2nd November, 1957, for the words "for the purpose of attending the 11th meeting of the said Council which was held in New Delhi, on the 11th October, 1957" the words "for the purpose of attending the sub-committee meeting of the Council held in New Delhi on the 10th October 1957 and the 11th meeting

of the said Council held in New Delhi on the 11th October 1957", shall be substituted.

[No. 5(34)IA(II)(G)/57.]

S.O. 341.—In the late Ministry of Heavy Industries Order S.R.O. 911, dated the 14th March, 1957, published in the Gazette of India Part II—Section 3 dated the 23rd March 1957:—

For "Dr. S. V. Desai, Chief Agronomist, M/s. New Central Jute Mills Co., Ltd., Chemicals & Fertilisers Dn., P.O. Ramnagar, Varanasi."
Read "Dr. S. V. Desai, 17, Manchhubhai Road, Malad, Bombay, Suburban District".

[No. 5(15)IA(II)(G)/57.]

P. V. B. MENON, Under Secy.

MINISTRY OF REHABILITATION

Office of the Chief Settlement Commissioner

New Delhi, the 26th February 1958

S.O. 342.—In exercise of the powers conferred by Sub-Section (i) of Section 8 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints, for the State of Punjab, Shri B. S. Grewal, I.C.S., as Custodian for the purpose of discharging the duties imposed on such officer by or under the said Act.

[No. XII(55)PROP(ADMN)/58.]

I. N. CHIB,

Dy. Chief Settlement Commr. and *ex-officio*, Dy. Secy.

Office of the Chief Settlement Commissioner

New Delhi, the 17th March 1958

S.O. 343.—In exercise of the powers conferred by sub-section (2) of section 31 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Pratap Dialdas as a member of the Advisory Board *vice* Shri R. K. Sidhwa, deceased; and makes the following amendment in the notification of the Government of India in the Ministry of Rehabilitation No. 36(6)/57/SI, dated the 24th April, 1957 namely:—

For the entry "Shri R. K. Sidhwa—Member" the following entry shall be substituted, namely:—

"Shri Pratap Dialdas—Member."

[No. F. 22(1)-COMP.II/58.]

L. J. JOHNSON, Jt. Secy.

New Delhi, the 19th March 1958

S.O. 344.—In exercise of the powers conferred by clause (a) of sub-section 2 of the Section 16 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby confers on Shri Narsingh Das Bahl, Assistant Settlement Officer, the powers of a Managing Officer, for the custody, management and disposal of immovable property in the compensation pool situated in the Union territory of Delhi.

[No. 8/179/57-Comp.I.]

New Delhi, the 21st March 1958

S.O. 345.—In exercise of the powers conferred by sub-section (i) of section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Shyam Chand as Assistant Settlement Officer for the purpose of performing the functions assigned to such officers by or under the Act, with effect from the date he took charge of his post.

[No. 8/182/57-Comp.I.]

M. L. PURI, Settlement Commissioner &

Ex-officio Under, Secy.

MINISTRY OF INFORMATION & BROADCASTING*New Delhi, the 21st March 1958*

S.O. 346.—In exercise of the powers conferred by sub-rule (3) of rule 9 of the Cinematograph (Censorship) Rules 1951, read with sub-rule (3) of rule 10 of the said Rules, the Central Government hereby re-appoints after consultation with the Central Board of Film Censors, Shri S. Shankar Raju Naidu, as a member of the Advisory Panel of the said Board at Madras with effect from the 4th February, 1958

[No. 11/4/58-FC.]

D. R. KHANNA, Under Secy.

CORRIGENDUM*New Delhi, the 21st March 1958*

S.O. 347.—In this Ministry's Statutory Order No. 152, dated the 26th February, 1958 appearing in the Gazette of India Extraordinary Part II, Section 3, Sub-Section (ii), the entry 'Industrial Policy' occurring against Serial No. 4 in the Schedule may be substituted by 'Our Industrial Age'.

[No. 1/1/58-FP.App.181.]

V. P. PANDIT, Under Secy.

MINISTRY OF STEEL, MINES & FUEL**(Department of Mines & Fuel)***New Delhi, the 19th March, 1958.*

S.O. 348.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

SCHEDULE

| Sl. No. | Name of villages | Thana | Thana No. | Distt. | Area |
|------------|-----------------------|----------|-----------|-------------|---------------------|
| 1. | Jainagar (Part) | Ramgarh. | 25 | Hazaribagh. | 240 acres (aprox) |
| 2. | Balkundra (Part) | Ramgarh. | 26 | Hazaribagh. | 280 acres (aprox) |
| 3. | Kurse (Part) | Ramgarh. | 47 | Hazaribagh. | 960 acres (aprox) |
| 4. | Deona Bargawan (Part) | Ramgarh. | 43 | Hazaribagh | |
| 5. | Matkuma (Part) | Ramgarh. | 49 | Hazaribagh | |
| 6. | Ladi (Part) | Ramgarh. | 53 | Hazaribagh. | |
| Total area | | | | | 1,480 Acres (aprox) |

Boundary Description

AB Line—Starting from the Nakari Nadi going upto the common Boundary of Balkundra and Jainagar villages Area 240 Acres (Approx.) south of Nakari Nadi.

BC Line—Starting from common boundary of Jainagar and Bolkundra villages going up to the Railway line covering the area west of the Rly. line, Area 280 Acres (Approx).

CD Line—Area to the north of the Rly. line.

AG Line—Runs along the Eastern and Southern Bank of Nakari Nadi up to the point where it meets the Balkundra Nalla and the Western Boundary of Bhurkunda Colliery.

GF Line—Along the Western Boundary of Bhurkunda Colliery.

FEH Line—Along the Southern Boundary of Bhurkunda and Lapanga Colliery (F to E Bhurkunda Boundary, 'H to E' Lapanga Boundary).

HD Line—Along the common Boundary of Ladi and Lapanga villages upto the Rly. line.

The map of the area can be inspected at the office of the National Coal Development Corporation (Private) Ltd., (Lands Acquisition Section), Darbhanga House, Ranchi or at the Office of the A.S.O.C. Karanpura, National Coal Development Corporation (Private) Ltd. P.O. Argada, District Hazaribagh or at the office of the Deputy Commissioner Hazaribagh

[No. C2-7(112)/57.]

A. S. GREWAL, Under Secy.

(Department of Iron & Steel)

New Delhi, the 21st March 1958

S.O. 349.—/ESS COMM/IRON & STEEL-15(1)/AM/14—The following Notification issued by the Iron and Steel Controller is published for general information:—

"NOTIFICATION

In exercise of the powers conferred by Sub-Clause 1 of Clause 15 of the IRON & STEEL, (CONTROL) ORDER, 1956 and with the approval of the Central Government, the Iron and Steel Controller is hereby pleased to notify the selling prices of Tin Bars as follows:—

For the period from 1st October, 1955 to the 28th June, 1957—Rs. 365 per ton.

From the 29th June, 1957, onwards, till further notice—Rs. 435 per ton.

A. S. BAM,

Iron and Steel Controller".

[No. SC(A)-2(258)/57.]

G. RAMANATHAN, Dy. Secy.

MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Communications and Civil Aviation)

New Delhi, 19th March 1958

S.O. 350.—In exercise of the powers conferred by rule 160 of the Indian Aircraft Rules, 1937, the Central Government hereby directs that during the period commencing on and from the 1st January 1958 and ending with the 31st December 1958, the following concessions shall be admissible to candidates for the grant of a Commercial Pilot's 'B' licence, namely:—

- 1 Every such candidate shall be permitted to re-appear not more than thrice (instead of twice) for examination in any of the groups (so far as the candidate for the grant of 'B' licence is concerned of the technical examinations specified in paragraph 3 of section 'C' in Schedule II to the said Rules, in which he has failed).
2. The total period during which any such candidate shall pass in all the groups (so far as the candidate for the grant of 'B' licence is concerned) of the said technical examinations shall be one year (instead of six months) from the date of the first successful examination.
3. The flying tests specified in section 'C' of Schedule II to the said Rules shall continue to be carried out within a maximum period of 2 months (from the date of the first test undertaken and together with the technical examinations specified in that section shall be completed within the overall period of 12 months from the date of the first successful examination instead of nine months) preceding the date of receipt in the office of the Director General of Civil Aviation of complete papers for the issue of 'B' licence.

[No. AR/1937(38).]

[F. No. 10-A/14-58.]

D. R. KOHLI, Under Secy.

MINISTRY OF LABOUR & EMPLOYMENT*New Delhi, the 19th March 1958*

S.O. 351.—In pursuance of sub-section (1) of section 86 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby authorises the Director General of the Employees' State Insurance Corporation to institute prosecutions or accord previous sanction to prosecutions under the said Act.

[No. HI-1(19)/58.]

New Delhi, the 24th March 1958

S.O. 352.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 30th day of March, 1958, as the date on which the provisions of Chapter IV (except sections 44 and 45 thereof, which have already been brought into force), Chapter V and Chapter VI (except sub-section (1) of section 76 and sections 77, 78, 79 and 81 thereof, which have already been brought into force), of the said Act shall come into force in the following areas of the State of Uttar Pradesh, namely:—

1. The areas within the limits of the Aligarh municipality.
2. The areas within the municipal limits of Hathras.
3. The areas within.....
 - (i) the municipal limits of Shikohabad,
 - (ii) the revenue villages of Nizampur, Garhuma and Ubatl situated in Pargana and Tehsil Shikohabad in the district of Mainpuri.
4. The areas within the municipal limits and cantonment limits of Bareilly, and the revenue village of Clutterbuckganj, in Pargana, Tehsil and district of Bareilly.

[No. HI-13(2)/58.]

R. M. DOIPHODE, Under Secy.

New Delhi, the 19th March 1958

S.O. 353.—In exercise of the powers conferred by sub-section (2) of section 1 of the Payment of Wages (Amendment) Act, 1957 (68 of 1957), the Central Government hereby appoints the 1st day of April, 1958, as the date on which the said Act shall come into force.

[No. Fac.50(19).]

S.O. 354.—In pursuance of paragraph 4 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby nominates on the recommendation of the Government of Uttar Pradesh, Shri D. S. Misra, Under Secretary to the Government of Uttar Pradesh, Labour Department, as a member of the Regional Committee for the State of Uttar Pradesh, in the vacancy caused by the resignation of Shri H. S. Sharma, and makes the following amendment in the notification of the Government of India in the late Ministry of Labour No. S.R.O. 1357 dated the 15th April, 1954 namely:—

In the said notification, for entry (2), the following entry shall be substituted, namely:—

- “(2) Shri D. S. Misra, Under Secretary to the Government of Uttar Pradesh, Labour Department, Lucknow.”

[No. PF.II-45(22)/57.]

New Delhi, the 21st March 1958

S.O. 355./CDLB/Am(10)/58.—In pursuance of clause 4 of the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, the Central Government hereby appoints Shri Md. Moin, General Secretary, Dock Mazdoor Union, Calcutta, to be a member of the Calcutta Dock Labour Board, constituted under the notification of the Government of India in the late Ministry of Labour No. S.R.O. 2316, dated the 8th October, 1956, to represent dock workers.

[No. Fac.175(21)/58.]

S.O. 356.—Whereas immediately before the Employees' Provident Funds Act, 1952 (19 of 1952), became applicable with effect from the 31st July, 1956, to the factories of the Tata Oil Mills Co. Limited, at Bombay, Ernakulam and Calcutta, there was in existence a provident fund common to the employees employed in those factories of the said company and the employees in their establishments specified in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by section 3 of the said Act, the Central Government hereby directs that the provisions of that Act shall also apply to the said establishments of the Company.

SCHEDULE

1. The Tata Oil Mills Co. Ltd., Sales Office, Fort, Bombay.
2. The Tata Oil Mills Co. Ltd., Sales Office, Lal Darwaja, Ahmedabad.
3. The Tata Oil Mills Co. Ltd., Sales Office, Jawahar Square, Allahabad.
4. The Tata Oil Mills Co. Ltd., Sales Office, Suraj Bhavan, Station Road, Patna.
5. The Tata Oil Mills Co. Ltd., Sales Office, P 2, Saklat Place, Calcutta—13.
6. The Tata Oil Mills Co. Ltd., Sales Office, 28, Asaf Ali Road, New Delhi.
7. The Tata Oil Mills Co. Ltd., Sales Office, Velloz Building, Kingsway, Nagpur.
8. The Tata Oil Mills Co. Ltd., Sales Office, 2, Mahatma Gandhi Road, Bangalore.
9. The Tata Oil Mills Co. Ltd., Sales Office, Esplanade, Madras.
10. The Tata Oil Mills Co. Ltd., Sales Office, India Life Buildings, Trichy Road, Coimbatore.
11. The Tata Oil Mills Co. Ltd., Head Office, Bombay House, Bruce Street, Fort, Bombay.

[No. PFII-57(31)/57.]

S.O. 357.—Whereas immediately before the Employees' Provident Funds Act, 1952 (19 of 1952), became applicable with effect from the 30th September, 1956, to the factories of M/s. Dabur (Dr. S. K. Barman) Private Ltd., at 142, Rash Behari Avenue, Calcutta and at Lady Willington Road, P.O. Garla, 24-Paraganas, there was in existence a provident fund common to the employees employed in the factories of the said company to which the said Act applies and the employees in their City Office at 4, Tara Chand Dutta Street, Calcutta;

Now, therefore, in exercise of the powers conferred by section 3 of the said Act, the Central Government hereby directs that the provisions of the said Act shall also apply to the aforesaid City Office of the said Company situated at Calcutta.

[No. P.F.II-9(13)/58.]

New Delhi, the 22nd March 1958

S.O. 358.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment being a factory known as the Mercury Paints and Varnishes, Private Limited, Agar Bazar, Off Cadell Road, Dadar, Bombay—28 have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 1st day of October, 1956.

[No. PF-II-9(1)/58.]

New Delhi, the 24th March 1958

S.O. 359.—In exercise of the powers conferred by section 19 of the Employees' Provident Funds Act 1952 (19 of 1952), the Central Government hereby directs that the powers exercisable by it as the appropriate Government under the Explanation to sub-clause (iv) of clause (f) of paragraph 2 of the Employees' Provident

Funds Scheme, 1952, to specify the authority to declare a person as an apprentice, shall also be exercisable within each of the States specified in the Schedule annexed hereto by the Government of that State.

SCHEDULE

1. Andhra Pradesh
2. Assam
3. Bihar
4. Bombay
5. Kerala
6. Madhya Pradesh
7. Madras
8. Mysore
9. Orissa
10. Punjab
11. Rajasthan
12. Uttar Pradesh
13. West Bengal

[No. PF.II/5(13)/58.]

BALWANT SINGH, Under Secy.

New Delhi, the 19th March 1958

S.O. 360.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Orissa, Berhampore in the matter of an application under section 33A of the said Act from Shri Labo Das of the Orissa Minerals Development Co. Ltd., Berbil.

BEFORE THE SOLE MEMBER INDUSTRIAL TRIBUNAL ORISSA BERHAMPUR
PRESENT:—Sri L. Panda, B.A.B.L., Sole Member

INDUSTRIAL CASE NO. 4/56 (CENTRAL GOVERNMENT REFERENCE).

BETWEEN

Orissa Minerals Development Co. Ltd.,

AND

Workmen of the Company.

In the matter of an application u/s 33 by the Company for approval of the dismissal of a workman Labo Das and an application by the Labo Das u/s. 33A.

APPEARANCES

Sri S. Bala and Sri J. N. Jagati—for management.

Sri R. C. Ram advocate—for the workman.

AWARD

As the subject matter of both the above petitions are one and the same, they are heard together. Labo Das was working as a Time Keeper in the K 3 Mines of the O.M.D.Co. and on the ground that he made corrections in the Field Measurement book Exhibit 1 thereby raising payments, charges were framed against him and he was ordered to be discharged and §/s 33(2), the company have applied for approval of their action. This petition was filed on 17th October 1957. On the

same date, Labo Das also filed a petition u/s 33A, complaining against his dismissal on various grounds as stated in his application. By consent of both parties, these were heard together.

Regarding the petition u/s. 33A, Labo complained that he was illegally dismissed whereas the company contended that Labo had corrected entries in the measurement book and admitted them in a full fledged enquiry which was held regarding it. They further contended that there was no violation of Sec. 33 and so no complaint under Sec. 33A is maintainable. The company contended that with a fraudulent intention, Labo altered the figures in the measurement book causing financial loss for which charges were framed against him and an enquiry was held giving full opportunity to him and he was found guilty of misconduct and discharged.

The most important question for determination is whether the dismissal of Labo Das was justified in which case only the action of the Company can be approved. If the action of the Company is to be approved, then there cannot be any violation of sec. 33.

Both parties have adduced evidence. For the management, W. No. 1 Bhulam Bari was the Sirdar of K3 mines where Labo was working and his evidence is that the measurement book under ext. 1 was written by him but the various corrections as now found were not written by him and he saw them for the first time at the time of enquiry. He states that the book ext. 1 used to remain in custody of 2 persons only i.e., himself and Labo but none else and he says that Labo had made the corrections. Labo Das in his deposition admits that he made these various corrections in ext. 1 but states that he did so at the instance of this Sirdar M.W. 1 who stoutly denies it. He also admits that before the Enquiry Committee, he had admitted to have made the alterations and this is also the evidence of the M.W. 2, the office Manager of the Company. The ext. 3c signed by Labo also shows this.

Thus it is established beyond doubt that the ext. 1 measurement book figures were altered by Labo Das. He admits that he made such alterations week by week. The ext. 1 shows that figures and amounts have been altered to show a greater amount of out turn of work than what was really noted and thereby higher payment was made to the workmen and as stated by the M.W. 2, this was detected as the cost of raising went up abnormally for the particular mine during the concerned months.

That these corrections were made by Labo with a guilty motive is also established. He admits that to see that some labourers are paid more, he made the corrections. His explanation that he made the corrections at the instance of the Sirdar is not convincing. Of course, it may be very probable that both Labo and the Sirdar M.W. 1 acted in concert to cheat the company and for this, they must have taken the help of the concerned, labourers in whose accounts the alterations were made. But these facts do not absolve Labo from his fault. Nor is his fault lessened because as admitted by the management witnesses, no action was taken against the labourers or if the Sirdar was leniently dealt with. So it is clearly established that Labo Das was guilty of altering the figures of the Measurement book which resulted in financial loss to the company and must have caused some gain to Labo either alone or alongwith others.

For the above misconduct, charges were framed against Labo and a full fledged enquiry was held giving him all facilities to defend himself. He admitted his fault and there upon he was found guilty and dismissed. So there was nothing unfair in the enquiry or the charge and he does not say anything like that in his evidence. The finding of the Enquiry Committee was justified by evidence and admission of Labo.

Thus there could be no doubt that his conduct merited his dismissal and I do not see any reason to refuse approval to it. The extent and nature of the jurisdiction of the Tribunal in dealing with these cases have been fully pointed out in the case of the Buckingham and Carnatic Company, Ltd., 1952 L.A.C. 490 and in a recent decision of the Supreme Court reported in 1958 L.L.J. (Feb. Part) page 247 at page 255. A Tribunal has to either give the approval or to reject it but it cannot substitute its own judgment even though it might have come to a different conclusion on facts and to see if the employer is acting *bona fide* or *mala fide* and resorting to any unfair practice or victimisation. A *prima facie* case has to be made out by the employer which means not a case proved to the hilt but a case which can be said to be established if the evidence led in support of it were to be believed.

In the present case, the case has been proved against Labo Das and a fair enquiry was held and no principles of natural justice were offended. So the action of the management is to be approved and hence I accord approval to the same.

In view of the above finding, it has to be held that there was no violation of sec. 33 and as such there is no merit in the Petition u/s 33A which is dismissed and an award be sent to the Union of India for further action. This also disposes of the petition u/s. 33 filed by the C.O.

Dated the 28th February, 1958

Sd/- L. PANDA,
Sole Member.
[No. LRIL-37(8)/58.]

New Delhi, the 22nd March 1958

S.O. 361.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Bombay Port Trust and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 6 OF 1957:

The employers in relation to the Bombay Port Trust, Bombay.

AND

Their Workmen.

PRESENT:

Shri A. Das Gupta, Presiding Officer.

APPEARANCES:

For the Bombay Port Trust:

Shri S. D. Nariman, Legal Adviser.

For the workmen:

Shri P. D'Mello, General Secretary, and

Shri S. R. Kulkarni, Secretary, Transport and Dock Workers' Union, Bombay.

AWARD

By Notification No. LR-3(28)57, dated the 31st October, 1957, the Government of India, Ministry of Labour and Employment, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10, of the Industrial Disputes Act, 1947, have referred to me for adjudication an industrial dispute between the employers in relation to the Bombay Port Trust and their workmen. The items of the industrial dispute as listed in the Schedule to the Order of Reference are:

"Arrears due to the shore workers belonging to the "A" category, "B" category and casual category in respect of

- (i) weekly off with pay for the period 15th March 1951 to 2nd March, 1956;
- (ii) work on weekly off days during the period 15th March 1951 to 2nd March 1956, without a compensatory day off in lieu; and
- (iii) average daily wages for the weekly off days after the introduction of the piece-rate scheme with effect from 3rd March 1956, when the average fluctuated from week to week."

2. The dispute under reference relates to payment in respect of weekly off days and in respect of work on weekly off days without an alternative day of rest, to the shore workers under the Bombay Port Trust. For a clear appreciation of the demands of the workmen, a short history of the conditions of employment of the shore workers is a little relevant. Prior to 1948, the Bombay Port Trust labour was supplied by Toliwallas who may be equated to contractors. In April 1948, a scheme was adopted by the Bombay Port Trust for direct employment of the dock labourers commonly known as shore workers. A copy of the scheme is an Annexure (Exhibit B) to the written statement of the Bombay Port Trust. It provided for two main categories—category 'A' called non-scheduled permanent and category 'B' called casual. The scheme also mentions a third category—purely casual and commonly known as "rank casual". This third category will be referred to hereinafter, for the sake of brevity, as category "C". The workers

of this third category were employed to meet peak requirements or shortages due to excessive absenteeism. The main difference in the wages of these three categories 'A', 'B' and 'C' is in respect of attendance allowance which is payable, for days when work cannot be provided including Sundays, to the workers of category 'A' @ Annas -/12/- per day and to workers of category 'B' Annas -/6/- per day. No such attendance allowance is payable to the workers of category 'C' who are paid on the basis of actual period of attendance. Under the scheme, the workers of categories 'A' and 'B' were entitled to sanctioned holidays and rest on Sundays but when they were required to work on such days they were paid at 1½ times their normal rates of wages. The benefit of increased rate of payment for Sunday work was extended also to the workers of Category 'C'. I do not propose to mention the difference in other service conditions of the three categories of workers e.g. Provident Fund, etc. The normal rates of wages as defined in the scheme were made up of basic wages, house rent allowance and compensatory allowance, and such normal rates of wages in respect of the shore workers doing the main types of work were as under:

- | | |
|---|------------|
| (1) Gang workers or labourers other than Bharoots (stackers), Morphias and Special Morphias, & Cart & Wagon unloaders | Rs. 2/2/- |
| (2) Bharoots and Morphias | Rs. 2/10/- |
| (3) Special Morphias | Rs. 3/2/- |
- Cart & Wagon Unloaders were employed on piece rates as specified in the scheme.

3. By an agreement dated 13th November 1948 (Exhibit W.4) the Gang Workers, Bharoots, Morphias and Special Morphias were placed on incremental scales of pay.

- | | | | | |
|---------------------------|---|------------|---------------|------------|
| (1) Gang Workers | — | Rs. 2/2/- | 1 anna/2 yrs. | Rs. 2/8/-. |
| (2) Bharoots and Morphias | — | Rs. 2/10/- | 1 anna/2 yrs. | Rs. 3/- |
| (3) Special Morphias | — | Rs. 3/2/- | 1 anna/2 yrs. | Rs. 3/8/-. |

The Cart and Wagon Unloaders who were working on piece rate basis were to be paid with effect from 1st January 1949 at time rates to be determined by the Trustees in consultation with the Union. They appear to have been subsequently placed on the scale Rs. 3/2/- 1 anna/2 years—3/8/-.

4. The Minimum Wages Act, 1948 which came into force in 1948 provides for fixation of minimum wage rates for employments listed in the schedule to the Act. Employment under local authorities is one of such employments. Employment under the Bombay Port Trust accordingly comes under Minimum Wages Act. By separate notifications issued on different dates, the minimum wages, were fixed under the Act for different categories of workmen under the Bombay Port Trust. Notifications S.R.O. 335 (Exhibit W-2) published on 7th March 1951 and S.R.O. 3671 (Annexure to the Bombay Port Trust written statement—Exhibit D) published on 29th December 1954 are two of such notifications. The first mentioned notification was to take effect on and from 15th March 1951 and the other on and from the date of its publication i.e. 29th December 1954. The claim of the workers which I shall discuss later is for arrears of payment for weekly off days and for work on weekly off days according to the Minimum Wages Act and the Rules framed thereunder from 15th March 1951 when the first mentioned Notification came into effect. The refusal of the claim of the workers, the Bombay Port Trust contends that the shore workers were entitled to benefits under the Minimum Wages Act only from 29th December 1954 when the notification dated 29th December 1954 took effect and not earlier, inasmuch as they as Shri Nariman urges, came under the later Notification and not the earlier Notification. This controversy, as I shall point out presently, has no substance.

5. Shri D'Mello appearing on behalf of the workmen urges that item 48 (Labourers) in the Notification of 7th March 1951 includes the shore workers (Exhibit W.2). Shri Nariman on the other hand contends that the shore workers are covered by item 38 to 43 of the notification of 29th December 1954 which specifically refer to the different categories of shore workers doing different types of work (Annexure—Exhibit D to the Port Trust's written statement). In an affidavit (Exhibit W. 3) sworn on 13th September 1954 Shri Abdul Kadar Mahomed Jaffar Shaikh, Deputy Docks Manager of the Bombay Port Trust, appears to have stated:

"Referring to para 7 of the affidavit it is true that casual mazdoors were paid all amounts due in accordance with the provisions of the Minimum Wages Act for the overtime done by them. This, however,

was due to the fact that under the provisions of the Minimum Wages Act the Central Government by a notification dated 7th March 1951 made the provisions of the Minimum Wages Act applicable to certain categories of Port Trust Employees and by item 48 of the schedule for Bombay Port Trust employees "labourers" were brought within the scope of the Act. While as regards A & B category labourers there was no scope whatsoever for any doubt that they came within the scope of the said notification, as regards the casual mazdoors a question arose whether by reason of the fact that they had no continuing contract of employment with the Opponents they could be treated as coming within the scope of the said notification."

6. Along with the other demands, the demand that all the employees under the Port Trust, whether notified or not under the Minimum Wages Act be made eligible for benefits under the Act with retrospective effect from the 15th March, 1951, came up before the Board of Trustees and the Board of Trustees referred the matter to F. & G. T. & E. Committee. The Joint Committee recommended to the Board that the benefits of the Minimum Wages Act should be extended to all staff eligible under the Minimum Wages Act whether notified or not with effect from 15th March 1951 and the Board by Resolution No. 569 at a meeting held on the 11th August 1953 approved the recommendation and adopted it. The Board of Trustees having decided to extend the benefits under the Minimum Wages Act with retrospective effect from 15th March 1951 to all those employees under the Bombay Port Trust who were eligible for such benefits under the Act, the claim of the workmen is, in substance, for implementation of the Board's resolution rather than for implementation of any notification under the Minimum Wages Act. In the interest of peace in the industry, the Trustees of the Bombay Port decided to extend the benefits of the Minimum Wages Act to all employees who were eligible under the Act for such benefits with effect from 15th March 1951 on which day the first notification dated the 7th March 1951 came into force, no matter whether they were notified or not. There is no bar to an employer extending benefits under a statute to employees who are not normally entitled to such benefits under the statute or to employees, irrespective of their eligibility for such benefits, earlier than the date on which the benefits are made available by the statute. In this view of the case the controversy raised on behalf of the Bombay Port Trust has no substance and I do not feel myself called upon to express myself on the controversy.

7. Shri Nariman appearing for the Bombay Port Trust urges that the workers' claim could have been rightly based on the resolution of the Board, if there had been no notification subsequent to the resolution. I regret that I cannot appreciate this contention advanced on behalf of the Bombay Port Trust. Notifications published subsequent to the resolution which were not in conflict with the resolution could not undo it. The resolution does not appear to have been cancelled or modified at any time. On the other hand the subsequent notifications gave additional strength to the demands of the workmen before us based on the resolution, by removing the doubts which Shri Sheikh entertained about the 'rank casuals'. In fact the resolution was implemented and some payments were admittedly made in 1953 in respect of overtime work and work on weekly holidays to make up the deficiency in the payments received by the workmen from the 15th March, 1951 to October 1953. A question has been raised as to whether the resolution has been fully implemented. I shall discuss this point at the proper stage but the fact remains that the Bombay Port Trust claims to have implemented the resolution in the light of the provisions in the Minimum Wages Act and the Rules framed thereunder as understood by the Trustees.

8. Shri Nariman in support of his contention that the benefits under the Minimum Wages Act and the Rules framed thereunder are available only to those workmen in respect of whom minimum wages have been fixed, has referred me to section 13 of the Act and section 2 clause (i) which defines an employee. An "employee" has been defined in section 2 clause (i) of the Act as a person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed. Section 13 of the Act authorises the appropriate Government to fix the number of hours for a normal working day, and to provide a day of rest and payment for the day of rest as also for work on a day of rest for any scheduled employment in respect of which minimum rates of wages have been fixed under the Act. But the rules which have been framed under section 30 of the Act do not impose any limitation that the benefits under the Act are available to only those workmen in respect of whom minimum wages have already been settled under the Act. Shri Nariman's contention that an employee

is entitled to the benefits under the Act and the rules framed thereunder only after his minimum wages has been fixed under the Act would have been a good plea if the resolution of the Board of Trustees already referred to were not there. There is no bar to the employers extending the benefits under the Minimum Wages Act to employees as defined in the Act with retrospective effect.

9. The notification dated 29th December 1954 clearly shows that the shore workers including the Gang Workers of category 'C' came under the Minimum Wages Act. Shri Sheikh's affidavit clearly points out that both the Bombay Port Trust and the employees understood that the shore workers were covered by the earlier notification although there might have been some doubt as to whether the casual workers could come under the Act. There is nothing in the Act to exclude the workers in a scheduled employment who would by nature of their work would come under the Act, simply on the ground that they are casual and not permanent. The doubt which Shri Sheikh expressed can no longer exist after publication of the notification of the 29th December, 1954. Thus the shore workers including 'rank casuals' were eligible under the Minimum Wages Act. I must accordingly hold that the shore workers with the exception of Special Morphias who perform supervisory duties in the main are entitled under the resolution of the Board No. 569 to the benefits under the Minimum Wages Act and the Rules framed thereunder with retrospective effect from 15th March 1951.

10. In order to be an employee under the Minimum Wages Act, a worker must be employed in an employment listed in the schedule to the Act to do any work, skilled or unskilled, manual or clerical. Thus to be an employee, one of the essential conditions is that the worker must be employed to do any work, skilled or unskilled, manual or clerical. This was also a condition for an employee to be a workman under the Industrial Disputes Act as it stood before the amendment of 1956 and to be entitled to the benefits under the Industrial Disputes Act. It has been authoritatively decided in a series of cases that an employee who performs in the main supervisory duties is not a workman under the Industrial Disputes Act. The principles on which such decisions were based are also applicable to an employee under the Minimum Wages Act. I may mention here that there is no serious dispute that the Special Morphias are excluded from the Minimum Wages Act but Shri D'Mello urges that the benefits under the Act should be extended to them as well, on grounds of equity. I shall discuss this point at a later stage. For the present I may say that special Morphias are excluded from the Minimum Wages Act, and are not therefore entitled to any benefit under resolution No. 569 which was intended only for such staff under the Bombay Port Trust as were eligible under the Minimum Wages Act for benefits under the Act.

11. The shore workers were time rated till 2nd March 1956. They came under a piece-rate-cum-incentive-wage scheme from 3rd March 1956 under an award of Shri M. R. Meher as modified by a Special Bench of the Labour Appellate Tribunal. Prior to the introduction of the new scheme of wages, the time rate wages of each of the worker in a week were generally invariable and his average wage during a week was generally uniform except when a worker earned an increment within his grade in which case there was slight variation in the average. But under the piece-rate-cum-incentive-wage-scheme, the earnings of a worker fluctuated from day to day and his average earnings in a week fluctuated from week to week. So far as the shore workers are concerned, resolution No. 569 of 1953 of the Board of Trustees extending benefits under the Minimum Wages Act to all workmen under the Bombay Port Trust and implementation of the resolution in October 1953 effected a change in the service conditions of the shore workers, as they plead, in respect of payment of weekly off days and for work on weekly off days, and the piece-rate-cum-incentive-wage scheme which came into force from 3rd March 1956 brought in, as the workers contend, complications in the calculation of the average wages in a week. Issue (iii) relates to the period starting from 3rd March 1956 when the piece-rate-cum-incentive-wage scheme came into force and the other issues relate to the period from 15th March 1951 to 2nd March 1956. The workmen before us have accordingly split up the entire period from 15th March 1951 to 2nd March 1956 into two periods, viz. (1) from 15th March 1951 to October 1953 and (2) from November 1953 to 2nd March 1956, and have stated their grievances and formulated their demands separately as detailed below:—

15th March 1951 to October 1953.—The workmen contend that although under the direct employment scheme, Sunday was to be ordinarily a day of rest in a week, the workers of categories 'A' and 'B' as also category 'C' continued to be employed on Sundays without any alternative day of rest. They were however paid

at the rate of $1\frac{1}{2}$ times their normal rates of wages as defined in the scheme which, as the workmen state, were only the basic wage. This state of things continued till October 1953 when the Bombay Port Trust made some payments to workers of all the three categories for work on Sundays in the past from 15th March 1951 to October 1953 in pursuance to the resolution No. 569 of 1953. Such payments although purporting to have been made pursuant to the aforesaid resolution by way implementing the provisions of the Minimum Wages Act are said to have been far short, specially in respect of night shift work on Sundays, of the difference between what was due under the Minimum Wages Act and what was actually paid. As the question of payment for weekly off days arises only when such days of weekly off are allowed, and as the workers of all the three categories were not in fact allowed any weekly off day, the workers do not claim any arrears of payment for weekly off days during this period. They however, claim for all the three categories of workers for work done on weekly off days (Sundays) the difference between the double the ordinary rates of pay of the workers as defined in rule 25 of the rules framed under the Minimum Wages Act and the payments actually made including the supplementary payments made in October, 1953.

November 1953 to 2nd March, 1956.—Workers of the categories 'A' and 'B' were allowed weekly rest on Sundays but no payment was made for the weekly rest days. Workers of category 'C' were employed on Sundays, they were either not given any alternative day of rest, or when they were given an alternative day of rest, it was without payment. The workers of category 'C' who continued to be employed on Sundays were not paid at double their ordinary rates of wages under the Minimum Wages Act. The workmen accordingly claim:

- (a) payments for weekly rest day on Sundays or where an alternative day of rest is given payments for such alternative day of rest according to rule 23 of the rules under the Minimum Wages Act;
- (b) payment of the difference between the double the ordinary rates of wages under the Minimum Wages Act and the amounts actually paid for work on Sundays, specially for night shift work on Sundays.

From 3rd March 1956.—Since introduction of the piece rate cum incentive wages scheme, the workers of categories 'A' and 'B' are being allowed weekly rest on Sundays but no payment is made for such weekly rest days. The workers of category 'C' continued to be employed on Sundays. They were sometimes given an alternative day of rest but such alternative days of rest were without payment. The workers demand that for weekly rest days (Sundays) for workers of categories 'A' and 'B' and for the alternative days of rest for the workers of category 'C' when they were given such alternative days of rest, payments should be made at the average daily rate strictly calculated in accordance with the actual earnings of the workers in the preceding week.

The Trustees dispute the validity of the reference so far Issue (iii) is concerned on the ground that the issue was decided in the award of Shri M. R. Meher as subsequently modified by the Labour Appellate Tribunal which is still in force and binding on the parties, and plead that the claim of the workmen for payment of wages under the Minimum Wages Act under all the three issues under reference are barred by section 15(2) of the Payment of Wages Act and section 20(2) of the Minimum Wages Act. According to the Trustees rule 23 of the Minimum Wages (Central) Rules does not provide for payment for normal weekly rest days i.e. Sundays and has no application to a case where a workman has not been required to work on a Sunday. They claim to have paid up in October, 1953 all dues of the workers of categories 'A' and 'B' from the 15th March 1951 to October 1953 for work on Sundays according to the provisions under the Minimum Wages Act. The Trustees plead that for the "rank casuals", who were not employed throughout any week, the question of giving extra wages for work of weekly off days or for extra payments for Sunday does not arise. The Trustees further plead that the daily wages of the workmen having been arrived at by dividing the monthly wage scale and allowances by 26, no question of any extra payment for weekly off days would arise.

12. Before I enter into the merit I shall discuss the preliminary objections raised on behalf of the Bombay Port Trust. As regards the objection about validity of the reference, I have been referred to issues 6 and 8 in the Schedule II to the Order of Reference No. LR3(44)/54, dated 23rd July, 1954 which led to the award by Shri M. R. Meher. The issues were:

- "(6) What should be the basis for calculating Provident Fund contributions, gratuity, leave salary, etc. under the new system of wage payment recommended.
- (8) What should be the rate of payment for work on weekly rest days and closed holidays."

There was no specific issue relating to weekly rest on Sundays or alternative days of rest. Appendix 'C' and Appendix 'E' to Shri Meher's award published in the Extraordinary issue of the Gazette of India dated 13th June, 1955 respectively lay down the broad principles of the piece-rate-cum-incentive-wage scheme for the shore workers and the crane drivers. The shore workers as I have already mentioned were daily rated; but the crane drivers were monthly rated. Rule 10 of Appendix 'E' lays down that for weekly offs and other holidays crane drivers will be paid 1/30th of the time rate (Rs. 4-4-0 comprising Rs. 2-4-0 wage and allowances and dearness allowance Rs. 2-0-0 but in Appendix 'C' there is no corresponding rule as to how the shore workers are to be paid for weekly offs and other holidays. The award of Shri Meher came up before the Special Bench of the Labour Appellate Tribunal at Bombay which pronounced its judgment on the 1st day of February 1956. Appendix 'C' and Appendix 'E' to the decisions of the Labour Appellate Tribunal likewise lay down the broad principles of the piece-rate-cum-incentive-wage scheme respectively for the shore workers and the crane drivers. Rule 11 of Appendix 'E' lays down that when not employed on any day, whether a weekly off day or holiday, crane drivers shall be paid the daily wage in addition to the differential under clause (2) above. Rs. 4-4-0 which was arrived at by dividing the total monthly wages of a crane driver Rs. 127-8-0 by 30 was to be the daily wage for the lowest paid crane driver. The differentials were the difference between the daily wages of the higher paid crane drivers and that of the lowest paid crane drivers. In Appendix 'C' there was no such provision for payment to the shore workers for weekly offs or holidays. Shri Nariman contends that absence of any direction for payment to the shore workers in respect of weekly offs and holiday clearly indicates, by implication, that they were not awarded to any such payment. Whatever might have been the significance of the absence of any such direction, the fact remains that the Tribunal was not called upon in express terms by the order of reference to adjudicate upon any dispute in respect of payments for weekly off days or holidays, to the shore workers or the crane drivers. The primary tribunal as also the Appellate Tribunal did not intend to bring about any change in the existing service conditions of the shore workers and the crane drivers in respect of wages for weekly offs and holidays. The monthly wages of the crane drivers, who were monthly rated workers, was for all the days in the month including weekly offs and holidays. The shore workers on the other hand who were daily rated workers did not receive any extra payment on weekly offs and holidays. The primary tribunal as also the Labour Appellate Tribunal added a clause to the scheme of the piece-rate-cum-incentive-wage scheme for the crane drivers as to how they were to be paid for weekly offs and holidays lest there might arise any doubt or difficulty about calculation of wages for weekly offs and holidays after introduction of the scheme. But as the shore workers were not actually paid any extra for weekly offs and holidays, no direction was called for. I accordingly hold that the award of Shri Meher or the decision of the Labour Appellate Tribunal does not in any way bar the present reference in respect of issue No. (iii).

13. Now I shall deal with the other preliminary objections raised by Shri Nariman on behalf of the Bombay Port Trust. The limitations prescribed in the Payment of Wages Act or the Minimum Wages Act apply to proceedings before the authorities under these Acts. A question appears to have been raised before the Hon'ble Federal Court in the case of Shamnugger Jute Factory Co. Ltd. (North) as to whether section 22(d) of the Payment of Wages Act bars the jurisdiction of the Industrial Tribunal and their Lordships of the Hon'ble Federal Court of India decided in the negative. Section 22(d) of the Payment of Wages Act reads as follows:

"No court shall entertain any suit for the recovery of wage or of any deduction from wages in so far as the so claimed,

(a)

(b)

(c)

(d) could have been recovered by an application under section 15."

Their Lordships observed:

"The only additional argument urged before us was that the claim to such payment should be determined under the payment of Wages Act, because section 15 of that Act creates the Tribunal and under section 22(d) of that Act the jurisdiction of civil courts to hear a suit for wages is barred. It does not exclude any other proceeding permitted by law to enforce payment. The Tribunal contemplated by section 15 of the payment of Wages Act is not, in our opinion, one which could affect the jurisdiction of the Tribunal set up under section 7 of the Industrial Disputes Act and to which a reference could be made under section 10 of that Act. The Tribunal set up under the Industrial Disputes Act has a much wider jurisdiction. In our opinion the two Acts are not in *pari materia* and the contention that the jurisdiction of the Tribunal set up under the Industrial Disputes Act is excluded by the provisions of the payment of Wages Act is unwarranted."

14. Section 24 of the Minimum Wages Act contains similar proviso. On identical principles I must hold that section 24(d) does not exclude the jurisdiction of this Tribunal. I fail to understand as to how this Tribunal is fettered by the limitations specially prescribed for proceedings under those two Acts when those two Acts do not in any way bar the proceedings before this Tribunal. Shri Nariman contends that a court of equity should not ignore the limitations prescribed by statute for common law courts and thereby defeat the purpose and object of those statutes. That is a question for the legislature to consider. If it was the intention of the legislature to fetter the jurisdiction of the industrial tribunals in any way it could have done so in clear and unambiguous terms. In fact, the general law of limitation under the Indian Limitations Act does not apply to proceedings before industrial tribunals. I accordingly reject the preliminary objection. However, I may mention in this connection that, as already stated, the claim of the workmen before me is based on a resolution of the Trustees taken in 1953 rather than on any notification under the Minimum Wages Act. The limitation prescribed under section 20(2) of the Minimum Wages Act clearly refer to an application in respect of minimum rates of wages fixed under this Act. Sections 3 to 5 of the said Act deal with fixation of minimum wages and such minimum rates of wages are to be fixed by the appropriate Government by a notification as provided in section 5. The claim of the workmen is based on a resolution of the Board of Trustees who decided to extend the benefits under the Minimum Wages Act to all employees under them who are eligible under the Act irrespective of any notification. In this view of the case the contention of Shri Nariman has no force. As I have already indicated the dispute under reference relates to payment in respect of weekly rest days and were on days of weekly rest. The claim of the workers is based on the Board's Resolution No. 569, dated 11th August, 1953. The resolution does not specifically enumerate the benefits which the workers are entitled to, but refers to the Minimum Wages Act for such benefits. We are accordingly to find out from the Act and the Rules framed thereunder what those benefits are. Only the broad heads of the benefits are mentioned in the Act and the Act authorises the Government to specify the details of such benefits by rules. The only two rules having a bearing on the subject matter of the dispute are rules 23 and 25. These two rules read as follows:

Rule 23: Weekly Holidays: (1) Unless otherwise permitted by the Central Government, no worker shall be required or allowed to work in a scheduled employment, on the first day of the week (hereinafter referred to as the said day) except when he has or will have a holiday for the whole day on one of the five days immediately before or after the said day for which he shall receive payment equal to his average daily wages during the preceding week:

Provided that the weekly holiday may be substituted by another day;

Provided further that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Where in accordance with the provision of sub-rule (1) any worker works on the said day and has had a holiday on one of the five days immediately preceding it, the said day shall for the purposes of

calculating his weekly hours of work, be included in the preceding week.

Explanation.—For the purposes of the rule 'week' shall mean a period of seven days beginning midnight on Saturday night.

Rule 25.—Extra Wages for Overtime.—(1) When a worker works in an employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages;

- (a) in the case of employment in agriculture, at one and a half time the ordinary rate of wages;
- (b) in the case of any other scheduled employment, at double the ordinary rate of wages.

Explanation.—The expression "ordinary rate of wages" means the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale to the person employed of foodgrains and other articles as the person employed is for the time being entitled to but does not include a bonus.

- (2) A register showing overtime payment shall be kept in form IV.
- (3) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948."

15. Sunday is the first day of the week. Unless otherwise permitted by the Central Government, it is normally to be the day of rest for workers. If permitted by the Central Government the workers may be employed on Sundays in which case they should be given an alternative day of rest on one of the 5 days immediately before or after that Sunday for which payment shall be made equal to his average daily wages during the week. Such substitution of the normal weekly day of rest i.e. Sunday by an alternative day is permissible provided the substitution does not result in a worker working for more than 10 days consecutively. Rest is a relative term. The workers may enjoy rest only after they have worked. Section 13-B of the Act contemplates a day of rest in every period of 7 days and when rule 23 fixes the first day of the week as the normal day of rest, it is silent about payment for the first day of the week which is normally to be a day of rest. But when an alternative day is given in lieu of Sunday, rule 23 provides, for this alternative day of rest for payments equal to the average daily wages of the worker in the preceding week. All these provisions lead to the inference that the normal day of rest although the first day of the week is the last day of the period of 7 days contemplated by section 13(B) or in other words the workers are entitled to a day of rest in consideration of 6 days' work preceding.

16. Rule 23 does not speak of any payment for work on a day of rest whether on Sunday or any other day. The wages are fixed on the basis that a day should not be more than 9 working hours and a week not more than 48 working hours. If a worker has to work on any Sunday or any other day of rest and if the hours worked on Sunday or any other day of rest exceed 9 hours, or the total hours worked during the week exceed 48 hours, the worker is entitled under Rule 25 to wages at overtime rates for the hours worked in excess of the limit. According to Rule 23(2), if a worker is given a substituted day of rest on any of the five days immediately before the particular Sunday on which he is to work that Sunday is to be regarded as part of the previous week. Obviously, therefore, if the substituted day of rest on any of the five days immediately after the particular Sunday on which the worker has to work, that Sunday will be part of the week of which it is the first day. In the absence of any suggestion to the contrary I may fairly presume that the workers whenever they were employed on Sunday, they were employed for eight hours a day except in the night shift work when under the rules of the Bombay Port Trust a shift consisted of 6 working hours.

17. On an analysis of the rules framed under the Minimum Wages Act, in the context of the issues before me and the demands of the workmen, it is found that the rules provide the following benefits:—

(1) Payment of weekly day of rest—

(a) normal day of rest i.e. Sunday—Rules are silent.

(b) substituted day of rest—Average of the daily rates during the preceding week.

(2) For work on weekly day of rest—

(a) for work on the weekly day without a substituted day of rest—
Payment shall be at the ordinary rates of wages unless the worker works for more than 9 hours on the weekly off day or the total number of hours worked during the week of which the weekly off day is a part exceed 48 hours.

(b) In either case when the worker works for more than 9 hours on any weekly off day or when the total hours worked during the week of which the weekly off is a part exceed 48 hours the worker is entitled to extra payment under Rule 25 for the hours worked in excess of the limits fixed by the rules.

(3) A worker is entitled to a day off only after he has worked for six consecutive days.

The claims of the workmen shall have to be considered in the light of these statutory provisions with due reference to the conditions of their employment.

18. The system of employing labour on daily rates or even hourly rates obtains in various industries specially in industrially advanced countries. By long experience the industrialists have found the system very useful and convenient, specially in manufacturing industries, as it helps to eliminate unnecessary complications in maintaining accounts, facilitates costing of jobs, stimulates production efforts and exercises a salutary check upon absenteeism and indolence. The workers had not sufficient education in the past, and the only principles that were intelligible to them were "no work no pay" and "work and earn". With the spread of industries the system of employing labour on daily rates or even hourly rates became more popular. Because of the convenience of the system, wage fixing authorities would not readily interfere where such system obtains but they have never been unmindful of the interest of labour and while fixing the daily rates or hourly rates of wages, they took extra care to safeguard the interest of labour. The principle adopted generally by wage fixing authorities in fixing the daily rates of wages of a daily rated worker in India has been to find out the monthly wage of a worker with a standard family of three consumption units after the consideration of all relevant factors including normal nutrition standard and to divide it by 26. This proceeds on the premises that on an average, there are 26 working days in a month, and that an ordinary diligent worker may earn a month's wages for working on 26 days. It is true that in each and every month there are not 26 working days. A question as to whether non-payment of separate wages to a daily rated worker employed in the commercial establishment entitled "Greaves Cotton & Company Limited" offended the provisions of section 18(3) of the Bombay Shops & Establishment Act, 1948, came up before the High Court at Bombay on an application of a worker under Article 227 of the Constitution of India (Spl. C.A. No 2390 of 1957). In that case Shri K. T. Sule representing the worker appears to have contended that the wages which the daily rated worker would get by working on 26 days would be for a period of 26 days which takes no account whatsoever of the four closed days which occur in a month. Their Lordships of the Bombay High Court on a consideration of the principles underlying the fixation of the daily wages of a daily rated worker rejected the application of the worker. A true copy of the judgment has been placed before me. Their Lordships appreciated that a daily rated worker is not only entitled to be paid for the days on which the daily rated worker works but also is entitled, under section 18(3) of the Bombay Shops & Establishment Act, to be paid his wages on those days on which the establishment would remain closed. Their Lordships considered the principle with reference to the individual months in a year, compared the monthly earnings of a daily rated worker with those of a comparable monthly rated worker and observed:

"It would appear that in respect of certain months the petitioner would be at an advantage, while in respect of a conceivable month such as February, he may not be at an advantage. But whatever disadvantage the petitioner may have in respect of that month is more than counter-balanced by the advantage which he gets in respect of the other months. From this point of view, it does not appear to us that there is no substantial compliance with the provisions contained in section 18(3)."

Section 18(3) of the Bombay Shops & Establishment Act directs that the daily rated workers should be paid their daily wages for the day in the week on which the establishment is closed. The intention of the legislature underlying

this statutory provision seems to have been, as their Lordships suggest, that the worker gets wages for the full week and the full month although the worker may not be required to work on some days of the week or month on which the establishment remains closed under the Act. The daily rated workers whose daily rates of wages are fixed in such a way that their average monthly wages do not fall short of the monthly wage of a comparable monthly rated worker, are constructively paid for the weekly holiday or the weekly rest days on which the establishment is closed.

19. With a view to clarify further the principle which obtains in India in fixing the daily wages of the daily rated workers, I propose to discuss the basis of the conversion—how and why the wages fixed on monthly basis are divided by 26. There are normally 365 days in a year which are equivalent to 52 weeks and one day. The number of Sundays in a normal year is therefore 52 or at best 53. Assuming that there are 53 Sundays there are 312 working days in a year. Dividing this by 12, we get the average number of working days in a month which is 26. Thus if the rates of a daily rated worker is $\frac{1}{26}$ th of the monthly wage, he earns full 12 months' wages by working on 312 days. If the number of Sundays in any year is 52, the daily rated worker is at an advantage over his brothers who are monthly rated, for he gets $\frac{1}{26}$ th of a month's wages more. Similarly, in a leap year he gets $\frac{1}{26}$ th or $\frac{2}{26}$ th of a month's wages more. The total earnings of a daily rated worker for 26 days work are his total wages for the month including weekly rest days. We may fairly conclude that of the weekly earnings earned by daily rated worker for 6 days work, $\frac{1}{7}$ th of the total earnings represents his wages for Sunday, or in other words of his total daily earnings, $\frac{6}{7}$ ths represent his wage for the day's work and $\frac{1}{7}$ th for the weekly rest day, that is on Sunday on which day he does not work. Thus it is clear that a daily rated worker is constructively paid for weekly rest days by the total payments he receives for 6 days' work. Hence the question of separate payment for weekly rest day cannot arise in respect of a daily rated worker.

20. Rule 23 of the Minimum Wages (Central) Rules, does not provide for any wage for Sunday as a normal day of rest. It speaks about payment for an alternative day of rest which a worker is entitled to if he is employed on a Sunday. The question whether a daily rated worker who is given a weekly rest day on Sunday is entitled to any extra payment appears to have come up before the Bombay High Court and their Lordships on a construction of the rules held that a daily rated worker is not entitled to any extra payment for Sunday when it happens to be his day of rest (1957 I L.L.J., p. 626). A worker is entitled to only one day of rest in a week. I have already pointed out that out of the total earnings of a daily rated worker for 6 days of work in a week, $\frac{1}{7}$ th represent his wages for weekly days of rest whether it be on Sunday or any other day in the week. Sunday is normally the weekly day of rest and any other alternative day of rest should stand in the same footing. In this view the question of separate payment for an alternative day of rest for a daily rated worker cannot also arise. To deny extra payment for a Sunday to a worker who gets that Sunday as a weekly rest day simply because Rule 23 is silent and to allow extra payment for an alternative day of rest which a worker is given in consideration of his being employed on Sunday simply because the rule expressly speaks of such extra payment would tend to create discontent in the industry. The worker has been constructively paid during the preceding six days for one day of rest. To hold otherwise would amount to inequitable discrimination in favour of the daily rated workers who are employed on Sundays and are given an alternative day of rest. This could never be the intention of the legislature. Minimum Wages Act is undoubtedly a piece of social legislation and the general rule of construction is that it should be construed beneficially in favour of those for whose benefit it has been enacted. This general rule of construction must be followed when such a construction is beneficial to the entire group but in the present case where such a construction in favour of a worker who gets an alternative day of rest in lieu of Sunday would be to put him in an advantageous position as compared with his brother who enjoys Sunday as his weekly day of rest but is not entitled to any extra payment under the Minimum Wage Act or the rules framed thereunder as decided by their Lordships of the Bombay High Court in the case reported in 1957 I L.L.J. p. 626 (Trustees of the Port of Bombay and Authority under the Payment of the Wages Act and others). I am accordingly of the opinion that a daily rated worker is not entitled to any extra payment for the weekly day of rest whether it be on a Sunday or any other day.

21. I have elaborately dealt with the principles underlying the fixation of the daily rates of wages of a daily rated worker and there will be no difficulty in

understanding the principle in respect of a time rated worker. Under the scheme of piece rate *cum* wage incentive as awarded by Shri M. R. Meher and modified by the Special Bench of the Labour Appellate Tribunal which came into force from 3rd March 1956, the piece rate earnings which are to be processed on what is called the daily time rate wage are only multiples of the daily time rate wage. If the daily time rate wage includes a portion of the wage for Sunday or any other alternative day of rest, the daily piece rate earnings must likewise include a portion of the wage for Sunday or any other alternative day of rest in the week in the same proportion. If "w" represents the daily time rate of a daily rated worker $\frac{6}{7}w$ is the wage for each of the days worked and $\frac{1}{7}w$ would represent the wage for the weekly day of rest whether it be Sunday or any other day. Thus when a_1w is the total piece rate earning on a working day, $\frac{6}{7}a_1w$ represents wages for the day actually worked and $\frac{1}{7}a_1w$ wages for the day of weekly rest. We may fairly assume that $a_1w, a_2w, a_3w, a_4w, a_5w, a_6w$ and $6a_1w$ represent the total daily earnings of 6 days in a week of a daily rated worker working under the piece-rate-*cum*-incentive-wage scheme. The following table will show at a glance how much of the total earnings for the 6 days represents the wages of a worker for the 6 days worked and how much represents the wages for the day of rest:

| Days of the week | Actual earnings in each day under the piece rate scheme | Portion representing wages for the day | Portion representing wages for day of rest. |
|-------------------------|---|---|---|
| Sunday (Day of rest) | Nil | Nil | Nil |
| Monday | a_1w | $\frac{6}{7}a_1w$ | $\frac{1}{7}a_1w$ |
| Tuesday | a_2w | $\frac{6}{7}a_2w$ | $\frac{1}{7}a_2w$ |
| Wednesday | a_3w | $\frac{6}{7}a_3w$ | $\frac{1}{7}a_3w$ |
| Thursday | a_4w | $\frac{6}{7}a_4w$ | $\frac{1}{7}a_4w$ |
| Friday | a_5w | $\frac{6}{7}a_5w$ | $\frac{1}{7}a_5w$ |
| Saturday | a_6w | $\frac{6}{7}a_6w$ | $\frac{1}{7}a_6w$ |
| Total | $(a_1 + a_2 + a_3 + a_4 + a_5 + a_6)w$ | $\frac{6}{7}(a_1 + a_2 + a_3 + a_4 + a_5 + a_6)w$ | $\frac{1}{7}(a_1 + a_2 + a_3 + a_4 + a_5 + a_6)w$ |

Thus it is found that even in the piece-rate-*cum*-wage-incentive scheme the daily rated worker is constructively paid for each day of weekly rest at the average daily wage of the preceding 6 days.

22. I shall now consider the demands of the workmen under the three issues separately:

Issue (i): Weekly offs from 15th March 1951 to 2nd March 1956.

Issue (iii): Weekly offs after introduction of the piece rate scheme from 3rd March 1956.

I take up these two issues together. As the shore workers of all the three categories 'A', 'B' and 'C' were not given any weekly off from the 15th March 1951 till October 1953, no question of payment for weekly off days arises in respect of this period. From November 1953 to the 2nd March, 1956 all the shore workers of categories 'A' and 'B' were allowed Sunday as the day of rest. They were not however paid any extra wage for this day of rest. As I have already discussed, the daily rated workers are constructively paid for a day of rest in a week of 7 days and are not entitled to any extra payment for a day of rest whether it be on a Sunday or any other day of the week. The workers of the 'C' category who were not generally employed for six consecutive days, were not entitled to a day of rest. They are entitled to a day of rest provided they have worked for six consecutive days immediately before. But for this day of rest they are paid constructively in the same way as the workers of categories 'A' and 'B' are paid. Hence they are not entitled to any extra payment for the day of rest even if they were entitled to and have been given such a day of rest on Sunday or on any other day. As I have pointed out that even after introduction of the piece-rate-*cum*-incentive-wage scheme, a daily rated worker who has worked for six consecutive days and is entitled to and has been given a day off has been constructively paid for this day off whether it were on Sunday or any other day by the total earnings on the preceding six

days. In this view of the case also the daily rated workers are not entitled to any extra wage for the weekly off day. In all these cases the daily rated worker has been constructively paid for the weekly off day at the average daily wage of the preceding six days. This was a substantial compliance with the provisions of section 23 of the Minimum Wages Act and nothing is due to the workers of any of the three categories 'A', 'B' and 'C' (casual) on account of wage for weekly offs from the 15th March 1951 to 2nd March 1956 as also after the introduction of the piece rate scheme on and from 3rd March, 1956.

Issue (ii): Work on week off days from 15th March 1951 to 2nd March 1956 without a day off in lieu.

23. I have already pointed out that the rules do not speak of any payment for work on a day of rest whether on a Sunday or any other day as such. Wages are fixed on the basis that a day should not be more than nine working hours and a week should not be more than 48 hours. If a worker is to work on any Sunday or any other day of rest and if the hours worked on Sunday or any other day of rest exceed 9 hours, or the total hours worked during the week exceed 48 hours, the worker is entitled, under rule 25, to wages at overtime rate for the hours worked in excess of the prescribed limit. Overtime rate as fixed by rule 25 is double the ordinary rate of wages, made up of basic wage and of allowances but exclusive of bonus. The workers of all the three categories were employed from 15th March 1951 to October 1953 on their weekly rest days without any alternative day of rest in lieu and were paid, under the scheme for Direct Employment at $1\frac{1}{2}$ times their normal rates made up of their basic wages, house rent allowance and compensatory allowance. In October 1953, the Trustees, pursuant to the resolution No. 569 of the 11th August 1953, paid up all the shore workers of categories 'A' and 'B' with the exception of Special Morphas the difference between double the ordinary rates of wages as defined in rule 25 of the Minimum Wages (Central) Rules and $1\frac{1}{2}$ times the normal rates of wages as defined in the scheme for Direct Employment. In the absence of any suggestion to the contrary, I may fairly presume that during this period, the workers of categories 'A' and 'B' were employed for eight hours a day in the day shift and six hours a day in the night shift on all the seven days of the week. Thus a day shift worker worked for 56 hours in the week and the night shift worker worked for 42 hours in the week. After the supplementary payment in October 1953, the day shift workers received their full dues for the work on the day of rest as provided in rule 25. The night shift workers were not entitled, under rule 25, to any extra payment for the work on the day of rest inasmuch as the total hours worked by them did not exceed 48 hours. Nevertheless they were paid. The casual workers did not work for seven consecutive days and the total hours worked by them could not exceed 48. They were not entitled to any extra payment under rule 25. They were however entitled to payment for work on Sunday at single rate. The total wage of a worker of the lowest category including dearness allowance works out to Rs. 3/11/-. They were previously paid at Rs. 3/3/- which was $1\frac{1}{2}$ times their normal rates of wages as defined in the scheme for Direct Employment. In October 1953 they were paid the difference between Rs. 3/11/- and Rs. 3/3/-. Thus nothing is due to them. The Special Morphas were not paid any extra in October 1953 I shall deal with their case later.

24. After October 1953 the shore workers of categories 'A' and 'B' were allowed Sunday as a day of rest. Hence no question of payment for work on weekly rest days to the shore workers of categories 'A' and 'B' arises. The workers of category 'C' (casual) were employed on Sundays but they were not employed for six consecutive days just preceding a Sunday on which they were employed. As I have already pointed out they were not entitled to any day of rest unless they worked for six consecutive days and hence question of payment for work for weekly rest days arises only when they have worked for six consecutive days to earn a day of rest and they are employed on such a day of rest. There is no evidence or even any suggestion on this point. I must accordingly hold that in the case of casuals, who did not earn any day of rest, the question of payment for work on a day of rest does not arise. Thus under issue (ii) nothing is due to the workers of categories 'A' and 'B' as also of the casual category with the exception of Special Morphas.

25. The Special Morphas undoubtedly are workmen under the Industrial Disputes Act as amended in 1956. They are entitled to the benefits of adjudication under the Industrial Disputes Act, 1947. Under the Minimum Wages Act, they are not entitled to benefits under the Act. They were paid for work on weekly rest days under the scheme for Direct Employment of Labour at $1\frac{1}{2}$ times normal rates of wages. They were on the scale Rs. 3/2/- to Rs. 3/8/-. They received

under the scheme for Direct Employment of Labour for work on weekly rest days at the rate Rs. 4/11/- to Rs. 5/4/- whereas a gang worker received under the Minimum Wages Act for work on weekly rest days at the rate of Rs. 7/6/- to Rs. 8/2/-. The position seems rather anomalous—worker of the lowest category gets more than what a worker of the highest category gets. In the interest of piece in the industry this should not be allowed to continue. Equities demand this anomaly to be removed. On being questioned by me, Shri Nariman informs me that the Trustees do not plead financial inability and that they would gladly pay up the workmen whatever the Tribunal thinks are payable to them. The Special Morphias shall accordingly be paid for work done by them on weekly rest days from the 15th March 1951 to October 1953, the difference between double their wages inclusive of all allowances less what they have been paid under the scheme for Direct Employment of Labour.

26. In conclusion I must acknowledge the assistance I have received from the representatives of the parties in adjudicating the dispute referred to me.

CALCUTTA;

The 28th February 1958.

A. DAS GUPTA,

Presiding Officer,

Central Government Industrial Tribunal,

Calcutta.

ORDERS

New Delhi, the 19th March 1958

S.O. 362.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to RaneeGUNGE Coal Association Ltd., Kustore Colliery, P.O. Kusunda, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the termination of services of Sarvashri Durga Pada Mitra, Ram Gopal Chatterjee and Bhaya Kinker Mukherjee, is justified; and if not, to what relief they are entitled?

[No. LR II-55-2(44)/57.]

New Delhi, the 21st March 1958

S.O. 363.—Whereas an industrial dispute between the Punjab National Bank, Limited and their workmen in respect of the matter specified in the schedule hereto annexed was referred for adjudication to an Industrial Tribunal constituted with Shri Ram Kanwar, Retired District and Sessions Judge, as the sole member by the order of the Government of India in the Ministry of Labour No. S.R.O. 1687, dated the 2nd September 1953;

And whereas Shri Ram Kanwar has desired that the dispute may be transferred from him;

Now, therefore, in exercise of the powers conferred by section 33B of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby withdraws the proceeding in relation to the said dispute pending before the said Tribunal and transfers the same to the Industrial Tribunal constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 2389, dated the 10th July, 1957 of which Shri E. Krishnamurthi, is the Presiding Officer for the disposal of the proceeding.

SCHEDULE

Absorption of Bharat Bank employees in the Punjab National Bank Limited and their service conditions.

[No. LR-10(21)/56.]

S.O. 364.—Whereas by an order of the Government of India in the Ministry of Labour & Employment, No. LRIL/1(24)/58, dated the 21st March 1958, an industrial dispute between the employers in relation to the Amalgamated Selected Jharia and Khas Jharia Co. (P) Ltd., P.O. Jharia, Dhanbad, and their workmen has been referred to an Industrial Tribunal, Dhanbad for adjudication;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby prohibits the continuance of the strike and the lock-out in existence in Selected Jharia Colliery in connection with the said dispute.

[No. LRIL-1(24)/58.]

S.O. 365.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Amalgamated Selected Jharia and Khas Jharia Co. (P) Ltd., P.O. Jharia, Dhanbad, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of the sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad constituted under Section 7A of the said Act.

THE SCHEDULE

- (1) Whether the refusal of the management of the Selected Jharia Colliery to give work to the following 34 miners was justified and if not to what relief the miners in question should be entitled:—

1. Shri Mahadeo Bowrin
2. Shri Shoshi Bowrin
3. Shri Guhi Rajwar
4. Shri Haradhan Rajwar
5. Shri Jhari Rajwar
6. Shri Pahlani Bowrin
7. Shri Bodi Kora
8. Shri Rupan Kora
9. Shri Manoo Rajwar
10. Shri Etonu Gope
11. Shri Khidan Bowrin
12. Shri Fulku Manjhi
13. Shri Ramroop Jaiswar
14. Shri Sukhu Jaiswar
15. Shri Bagan Manjhi
16. Shri Manolal Manjhi
17. Shri Sitaram
18. Shri Ganesh
19. Shri Lakhan
20. Shri Shamlal
21. Shri Gafur
22. Shri Kali Koli
23. Shri Samaroo

24. Shri Kaleshar
25. Shri Gobind Kumhar
26. Shri Bhusan Bowri
27. Shri Shrimanto Bowri
28. Shri Amulya Bowri
29. Shri Bant Rajwar
30. Shri Tilu Rajwar
31. Shri Kedar Rajwar
32. Shri Bhikhu Rajwar
33. Shri Tripathi Thakur
34. Shri Nakul Bowri

(ii) Whether the strike resorted to by the workmen from 18th February, 1958 was justified and if so, to what relief should they be entitled;

(iii) Whether the lock-out declared by the management with effect from the 21st February, 1958 was justified and if not, to what relief the workmen should be entitled.

[No. LR-II/1.(24)/58.]

New Delhi, the 22nd March 1958

S.O. 366.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the Central Kirkend Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Central Kirkend Colliery, P.O. Kusunda, Dhanbad, is justified in keeping Shri Amrit Sonar, Line Mistry of the Colliery under suspension for more than 10 days and putting him on leave without pay on and from 2nd November 1956 and if not what relief the worker is entitled to?

[No. LR-II-2(11)58.]

S.O. 367.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Kassurgarh Colliery, Post Office Nudkharkee, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal Dhanbad, constituted under section 7A of the said Act.

THE SCHEDULE

Was Shri Siba Mahato stopped from work by the Management of Kassurgarh Colliery; and, if so, what relief he is entitled to?

[No. LR-II-2(26)/58.]

A. L. HANDA, Under Secy.